*THE HONOURABLE SRI JUSTICE B.PRAKASH RAO

+ Writ Petition No.3048 of 2000

% Dated: 30.08.2004

N.Srikanth Kumar … Petitioner

Vs.

$ The Government of Andhra Pradesh
reptd., by its Secretary, Food and
Agriculture Department, Secretariat,
Hyderabad and 3 others.

… Respondents

! Counsel for petitioner: Mr.V.Ravi Kiran Rao

^ Counsel for respondents: G.P. for Civil Supplies

< GIST:

>HEAD NOTE:

? Cases referred:

1. AIR 1967 SC 856

2. AIR 1967 SC 927

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 3048 of 2000

Between:

N.Srikanth Kumar, S/o Ramakistaiah,

Occ;Unemployee, R/o Haveli Ghanpur,

Medak Mandal and District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, reptd.,

by its Secretary, Food & Agricultural

Department, Secretariat, Hyderabad.

2. The Commissioner (CS), Civil Supplies,

Bhavan, Yerramanzi, Hyderabad.

3. The Revenue Divisional Officer, Medak.

4. The Mandal Revenue Officer, Medak.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of writ of Mandamus directing the respondents herein to appoint the petitioner as Fair Price Shop dealer of Haveli Ghanpur (H.Ghanpur village) forthwith who was provisionally selected in an interview held on 03.12.1999 pursuant to the notification No.J/36/99, dated 17.11.1999 by duly declaring the condition No.10.2 of G.O.Ms.No.198 Food, CS &n CA (CS-IV) department, dated 05.02.1996 issued under A.P. Schedule Commodities (Regulation of Distribution by Card System) Order, 1973 covering procedure of selection, appointment and disciplinary action against fair price shop dealers and the notification issued by the R.D.O., Medak vide No.J/36/99, dt.17.11.1999 imposing condition No.3 i.e.,close relatives of all Government employees specially those working in Civil Supplies department or revenue department or the Civil Supplies corporation shall not be eligible for appointment 'As fair price shop dealers' and also the consequential order passed by the Revenue Divisional Officer, Medak in the case of petitioner vide No.J/4408/99, dated 31.01.2000 cancelling his provisional selection as fair price shop dealer of Haveli Ghanpur (H.Ghanpur village) and also further the fresh notification issued vide notification No.J/1/2000, dated 09.02.2000 imposing the similar condition mentioned in the above notification as illegal, arbitrary and violative of Articles-14, 16 and 21 of the Constitution of India.

Counsel for the Petitioner: MR.V.RAVI KIRAN RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

-

-

-

-

-

ORDER:

Heard both sides.

2. The petitioner herein files this writ petition, *inter alia*, seeking writ of Mandamus directing the respondents to appoint him as a Fair Price Shop Dealer of Haveli Ghanpur (H.Ghanpur vg.) in pursuance of the selection made in response to the notification, dated 17.11.1999, and to declare the Condition No.10.2 of the G.O.Ms.No.198, Food, Civil Supplies and Consumer Affairs (CS-`IV) department, dated 05.02.1996 as illegal and void.

3. The case of the petitioner, in brief, is that in response to the notification, dated 17.11.1999, the petitioner has applied for the Fair Price Shop dealership. He claims that he is a permanent resident of Haveli Ghanpur village, Medak District, and after the completion of Intermediate, he registered his name in the employment exchange in the year 1995 and later, he has completed Graduation in B.A., which is entered in the said exchange. While so, form the news item, dated 23.11.1999, published in 'Eenadu' Telugu Daily newspaper, the petitioner came to know about the said notification calling for applications for filling the vacancies of the Fair Price Shop dealers and accordingly, he submitted the duly filled application on 27.11.1999. After conducting the interview on 03.12.1999, the petitioner was selected and his name was included in the provisional selection list, which was displayed on the notice board of the office of the Revenue Divisional Officer, Medak, on 07.12.1999. However, subsequently, basing upon the antecedent report received from the Mandal Revenue Officer, Medak, the said selection was cancelled, *inter alia*, on the ground that the petitioner is son of a Government employee. It is the case of the petitioner that his father is a teacher working in Panchayath Raj Department and therefore, he cannot be termed in any way as a Government employee. Even otherwise, it is averred that the said department is having no connection whatsoever with Civil Supplies Department directly or indirectly, and as such, it cannot be a ground for rejection. It is further averred that by invoking

Condition No.10.2 in the aforesaid G.O.Ms.No.198, Food, Civil Supplies and Consumer Affairs (CS-IV) department, dated 05.02.1996, the petitioner's legitimate right for employment and living as guaranteed to him under Articles-14 and 21 of the Constitution of India are violated and therefore, the proceedings of the Revenue Divisional Officer, Medak, dated 31.01.2000, is liable to be set-aside. Hence the writ petition.

Contesting the petitioner's claim, the case of the respondents is that Panchayath Raj department is only a wing of the Government and it cannot be totally disassociated with the Government. Admittedly, the petitioner's father, who is working as a teacher in the Panchayath Raj department will squarely fall within the definition of the Government employee and thus the disqualification contemplated as per Condition No.10.2 of the said G.O., gets attracted and the respondents have rightly cancelled the provisional selection of the petitioner for appointment as Fair Price Shop dealer.

On the submissions advanced by both the counsel and on appraisal of the material on record, it is evident that the questions which fall for consideration are as to whether an employee working in the Panchayath Raj department is a Government employee, for the purpose of incurring disqualification for his son being appointed as a Fair Price Shop dealer, as per Condition No.10.2 of the G.O.No.198, dated 05.02.1996, and whether such a condition is in any way bad, illegal and void.

There is no dispute to the fact that in pursuance of the notification issued, the petitioner has applied for Fair Price Shop dealership and he was selected and included in the provisional selection list. Subsequently, on verification, having found that the petitioner's father is working as teacher in Panchayath Raj department, the selection was cancelled, in view of the Condition No.10.2 of the aforesaid G.O.Ms.No.198, Food, Civil Supplies and Consumer Affairs (CS-IV) department, dated 05.02.1996, which reads as follows: -

'Close relatives of "Government employees" specially

> those working in Civil Supplies department or revenue department or the Civil Supplies corporation shall not be appointed as fair price shop dealers.'

The interpretation of the definition of the Government employee requires to be considered. The petitioner's father is working as a teacher in the Panchayath Raj department, which department.

It revolves around the query, whether the Panchayath Raj Department falls within the mischief of Government. Reference can be conveniently made to Article-12 of the Constitution of India, which reads as follows:-

> "In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India."

From the above, 'the State' is defined to include the Government and all local and other authorities. With such wider latitude made, it takes in all such instrumentalities and agencies of State, which discharge public functions of the Governmental character. In *AJIT SINGH Vs. STATE OF PUNJAB* and *BHAGAT RAM Vs. STATE OF PUNJAB* it was held by the Supreme Court that Panchayath Raj falls within the ambit of local authorities. In view of the same, there cannot be any two opinions, to hold that the employee of a Panchayath Raj is an employee of the Government for all purposes.

Coming to the other question as to whether the Condition No.10.2 of the said G.O., is in violation of the Article-14 of the Constitution of India, it can be safely said that for reasons mentioned above, the Condition No.10.2 of the said G.O., has been rightly imported, since the benefit of a Fair Price Shop dealership, is sought to be excluded for the children of the Government employee, with an avowed object. As a result, the children of all such employees are excluded.

In the circumstances, I do not find any merits in the writ petition. The writ petition fails and is accordingly, dismissed. No costs.

_____

B.PRAKASH RAO, J

30.08.2004

DR

Note:

L.R. Copy to be marked.

To

1. The Government of Andhra Pradesh, reptd.,

by its Secretary, Food & Agricultural

Department, Secretariat, Hyderabad.

2. The Commissioner (CS), Civil Supplies,

Bhavan, Yerramanzi, Hyderabad.

3. The Revenue Divisional Officer, Medak.

4. The Mandal Revenue Officer, Medak.

5. Two CCs to Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad. (OUT)

6. Two CD copies.